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LETTER DATED 13 JANUARY 1993 FROM THE SECRETARY-GENERAL
ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to convey the attached report on the peace talks convened by the Co-Chairmen of the Steering Committee of the International Conference on the Former Yugoslavia, which adjourned yesterday in Geneva.

As the report shows, potentially important progress has been achieved, particularly on the question of constitutional arrangements for Bosnia and Herzegovina. While the talks have been adjourned, the Co-Chairmen intend to continue discussions with the parties in the area in the coming days, while awaiting confirmation of Mr. Karadzic's agreement to the proposed constitutional principles. It is therefore my earnest hope that members of the Security Council will continue to extend their strong support to the Co-Chairmen in their efforts to consolidate and build upon the progress achieved.

(Signed) Boutros BOUTROS-GHALI

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Annex

REPORT OF THE SECRETARY-GENERAL ON THE ACTIVITIES OF THE INTERNATIONAL CONFERENCE ON THE FORMER YUGOSLAVIA

INTRODUCTION

1. In my last report on the talks held between 2 and 4 January 1993 (S/25050), I informed the Security Council that the Co-Chairmen of the Steering Committee had recessed the talks until Sunday, 10 January, and had urged that there be maximum military and political restraint in the intervening days. I commented that the peace process had taken on a qualitatively new dimension and reiterated my sincere belief that, if the Council decided to adopt a resolution enforcing the ban on non-authorized flights over Bosnia and Herzegovina, it would be helpful if its implementation could take effect after a reasonable period of time.

2. Unfortunately, as the Security Council already knows, on 8 January 1993, the Deputy Prime Minister of Bosnia and Herzegovina, Mr. Hakija Turajlic, was killed in Sarajevo while under the protection of the United Nations Protection Force (UNPROFOR). I immediately issued a statement condemning this reprehensible act which, I emphasized, made it all the more necessary for the parties to cooperate in the peace talks and to conclude the agreements placed before them by the Co-Chairmen. I also initiated an investigation of the incident by appointing a Special Commission of Inquiry headed jointly by Sahabzada Yaqub-Khan, former Foreign Minister of Pakistan and current Special Representative of the Secretary-General for Western Sahara, and Lieutenant-General Lars-Eric Walgren, Commander of the United Nations Interim Force in Lebanon (UNIFIL).

3. On 9 January, the Co-Chairmen also condemned the killing of Mr. Turajlic which, they added, underlined the need to end the war in Bosnia and Herzegovina. On the same day the Co-Chairmen wrote to Mr. Karadzic expressing their anger at the killing of Mr. Turajlic, which they deplored. They further informed Mr. Karadzic that they expected him to take immediate action to identify those responsible for that heinous crime. They stated that swift and sure action must be taken to detain and bring to trial those involved in the incident. In addition, they asked that he and General Mladic issue unambiguous orders to their forces that that type of conduct would not be condoned. They added that the suffering, death and dislocation in Bosnia and Herzegovina had gone on for too long and that the time had come to end the killing. They emphasized that the peace process must go forward.

I. STATEMENT BY THE PRESIDENT OF THE SECURITY COUNCIL

4. On 8 January, at the 3160th meeting of the Security Council, the President of the Council made a statement (S/25079) declaring that the Council fully supported the efforts of the Co-Chairmen of the Steering Committee of the International Conference on the Former Yugoslavia aimed at achieving an overall political settlement of the crisis through a complete cessation of hostilities and the establishment of a constitutional framework for Bosnia and Herzegovina. In this connection, the Council reaffirmed the need to respect fully the sovereignty, territorial integrity and political independence of Bosnia and Herzegovina. The Council fully endorsed the view of the Secretary-General described in his report (S/25050) that it was the duty of all the parties involved in the conflict in Bosnia and Herzegovina, despite the recent provocation, to cooperate with the Co-Chairmen in bringing the conflict to an end swiftly. The Council appealed to all the parties involved to cooperate to the fullest with the peace efforts and warned any party that would oppose an overall political settlement about the consequences of such an attitude. It stated that lack of cooperation and non-compliance with its relevant resolutions would compel it to review the situation in an urgent and most serious manner and to consider further necessary measures.

II. RESUMPTION OF THE PEACE TALKS

A. First plenary meeting

5. At the resumption of the talks, on 10 January 1993, the Co-Chairmen began by sharing their profound sorrow at the heinous killing of Mr. Turajlic on 8 January, and condemned that outrageous action. They equally condemned the brutal killing on 7 January of Minister Josip Gogala, who headed the Internal Revenue Service of Bosnia and Herzegovina. They then noted that, at the adjournment of the peace talks on 4 January, they had placed before the delegations a comprehensive package which, they believed, represented a fair, just and lasting peace in Bosnia and Herzegovina. The package consisted of a draft agreement relating to Bosnia and Herzegovina which dealt with the delimitation of provinces, a constitutional framework and humanitarian issues; and a draft agreement for peace in Bosnia and Herzegovina which dealt with observance and monitoring of the cessation of hostilities (see S/25050, annexes V and VI). They reminded the delegations that, in presenting the package, they had explained that its two agreements were inextricably linked and had indicated that, if all three parties proposed mutually agreed changes, the changes would be incorporated. They noted that Mr. Boban had accepted and signed the two agreements. President Izerbegovic had accepted the constitutional principles and the agreement dealing with observance of a cessation of hostilities. He had not accepted, however, certain of the proposed provincial boundaries. Mr. Karadzic, they further noted, had deferred expressing his views with respect to both of the documents until the resumption of the peace talks. The Co-Chairmen reiterated that a historic responsibility rested upon all those present. They emphasized that peace depended on them and expressed the hope that they would discharge that high

responsibility to the people of Bosnia and Herzegovina and agree with the two peace agreements that had been placed before them.

6. Following the introductory statement by the Co-Chairmen, Mr. Boban reaffirmed his delegation's acceptance of the two agreements, which he had already signed. Mr. Silajdzic stated that his delegation formally accepted the constitutional principles proposed by the Co-Chairmen (see appendix I). Mr. Karadzic stated that the two agreements were acceptable as a basis for discussion, but that further talks were necessary to settle details with regard to the constitutional principles and the proposed delimitation of provinces. With regard to the former, he tabled a document containing eight suggested principles (see appendix II).

7. Following the statement of Mr. Karadzic, the Co-Chairmen invited the other delegations to make comments. Mr. Boban appealed to the other delegations to accept and sign the package, as his delegation had done. Mr. Silajdzic sought clarification as to whether the Bosnian Serb delegation was accepting or was rejecting the Co-Chairmen's constitutional principles. The Co-Chairmen replied that Mr. Karadzic had raised issues for discussion with regard to those principles.

8. The Co-Chairmen then proceeded to examine the 10 constitutional principles seriatim, comparing the text of those they had proposed with those submitted by Mr. Karadzic and seeking clarifications from him about the meaning of his suggestions. During the ensuing discussion, the Co-Chairmen reaffirmed the importance of the concept of "three constituent peoples" and also made extensive references to other elements of the annex to the constitutional principles which had been circulated on 4 January ("Proposed constitutional structure for Bosnia and Herzegovina").

9. With regard to principle No. 1, the Co-Chairmen commented that they did not see any real difference between what they had proposed and what Mr. Karadzic had offered. The differences appeared to be mainly semantic. Both Co-Chairmen and Mr. Ahtisaari made it clear, however, that the concept of a "State within a State" would not be permitted under principle No. 1. In response to a comment by Mr. Silajdzic, the Co-Chairmen reaffirmed that Bosnia and Herzegovina was to remain an independent, sovereign State within its internationally recognized boundaries.

10. With regard to principle No. 2, which was omitted from Mr. Karadzic's list, Mr. Ahtisaari explained that it was not intended to restrict the role of the provinces on matters within their competence. In this regard, he read the following statement which, he stated, would form part of the records of the Conference explaining principle No. 2:

> "Only Bosnia and Herzegovina is to have international legal personality. Provinces cannot conclude formal international treaties. They would, however, be allowed to enter into administrative arrangements with each other or with foreign States, as long as the subject of the agreement was one within the exclusive competence of the province

concerned and did not infringe on the rights of any other province or of the central Government. Thus, agreements could be concluded in relation to education, cultural institutions and programmes, radio and television, licensing of professions and trades, natural resources use, health care, provincial communications, and energy production, etc. Should any question arise between one or more of the provinces wishing to conclude arrangements with each other or with a foreign entity, and the central Government or certain other provinces, as to the legality of such an arrangement, the question could be decided by the Constitutional Court at the request of any of the provinces or of the central Government."

11. With regard to principles Nos. 3 to 9, the Co-Chairmen noted that the views expressed by Mr. Karadzic related more to issues of detail than of substance. In this regard they explained that, once the constitutional principles had been accepted, a Working Group would be established to draft the Constitution proper. In the Working Group, the three sides, meeting under the chairmanship of Mr. Ahtisaari and operating by consensus, would formulate the precise text of the Constitution. Therefore, nothing would be imposed upon any delegation, which would be given every opportunity to express its views, to make proposals, to comment on proposals and to work out arrangements acceptable to all delegations. The Co-Chairmen further explained that, in the event of difficulties being encountered in reaching agreement on the details of the new Constitution, these would be referred to them and they would then use their good offices to help to resolve such difficulties.

12. With regard to principle No. 10 proposed by the Co-Chairmen but omitted from Mr. Karadzic's list, they explained that it was introduced for the benefit of all three sides participating in the discussion. The Co-Chairmen then reviewed in detail the international monitoring and control arrangements envisaged with regard to the following matters:

(a) Interprovincial throughways;

(b) The Constitutional Court;

(c) The progressive demilitarization of the country;

(d) The non-discriminatory composition of the police;

(e) The International Commission of Human Rights for Bosnia and Herzegovina;

(f) The Ombudsmen;

(g) The Human Rights Court.

13. The Co-Chairmen specifically explained that, with regard to the composition of bodies dealing with constitutional issues, human rights or international guarantees, details of the composition and procedures of those bodies would be worked out in the actual drafting of the Constitution.

B. Second plenary meeting

14. At the second plenary meeting, on 12 January, the Co-Chairmen welcomed President Milosevic (Serbia) and President Bulatovic (Montenegro) to the peace talks. They noted that, on 10 January, they had listened to comments on the agreements placed before the sides and had provided clarifications on the constitutional principles. Those clarifications had been reflected in the minutes of the plenary meeting, which had been circulated and formed part of the record of the Conference.

15. They further noted that, since the last plenary session, they had carried out extensive consultations. In the light of those consultations, they had combined the first and fourth principles into one, while retaining the identical wording. The 10 principles had accordingly become 9. The new version was before the delegations (see appendix III).

16. Mr. Karadzic stated that his delegation had held extensive consultations on the documents proposed by the Co-Chairmen. It had suggested some changes to those documents which had not been incorporated. It therefore repeated the following suggestions:

(a) The insertion of a preambular reference in the draft agreement on Bosnia and Herzegovina reaffirming the 1966 International Covenants on Human Rights;

(b) The agreement to be signed should indicate that the map proposed by the Co-Chairmen was a basis for discussion;

(c) The following provision contained in working paper ICFY/4 circulated by the Co-Chairmen on 2 January 1993 should be reinstated in the constitutional principles:

> "The constitution shall recognize the three major 'ethnic' groups as the constituent units of the State, as well as a group of 'others'."

If those three points were accommodated, his delegation would accept the documents proposed by the Co-Chairmen.

17. The Co-Chairmen stated that the preambular reference to the International Covenants could be considered when the documents were prepared for signature. If there was agreement on the principles, then the discussion would proceed with regard to the map, until an accord was reached on it, so that the second change proposed by Mr. Karadzic would not be necessary.

18. Mr. Karadzic reiterated that the matter was of the greatest importance. If there was no compromise on the proposals his delegation had made, it could not accept the constitutional principles and would have to refer the matter to its Assembly and possibly to a referendum.

19. President Cosic stated that, in view of the fact that the constitutional principles guaranteed equal rights for all peoples, and taking into account that the Constitution itself would be worked out through consensus, the constitutional principles were acceptable to his delegation. He appealed for continued efforts to be made in the search for peace. President Milosevic stated that he shared the views of President Cosic and that the constitutional principles proposed by the Co-Chairmen were acceptable to him.

20. Mr. Silajdzic stated that, even as the peace talks were going on, Sarajevo had been shelled and people were dying. People were also dying from hunger and cold. He stated that the most urgent issue was to place all heavy weapons under United Nations control. The Co-Chairmen pointed out that the issue of heavy weapons had been already addressed in the documents proposed by them and that there seemed to have been a general understanding on dealing with such weapons as part of the package.

21. Mr. Boban requested that the floor be given to Prime Minister Akmadzic of Bosnia and Herzegovina. He warmly welcomed the peace efforts of the Co-Chairmen and expressed appreciation for their statements of condolences at the heinous murder of Mr. Turajlic and Mr. Gogala. After stating that there was no consensus on the composition of the delegation of Bosnia and Herzegovina, which could be decided only by the people of the country, he reiterated that the Bosnian Croat delegation accepted the documents proposed by the Co-Chairmen. He appealed for efforts to continue to bring the parties closer together.

22. President Tudjman expressed his surprise at the fact that, after all the efforts made, agreement had not been reached on the constitutional principles. He noted that that could mean not only continuation of the war, but also its expansion. He referred to an agreement he had proposed between the Republic of Croatia and the Federal Republic of Yugoslavia, and he urged the Co-Chairmen to use their good offices to help to achieve normalization of relations between the two countries.

23. At the invitation of the Co-Chairmen, the Chairperson of the Humanitarian Issues Working Group, Mrs. Ogata, United Nations High Commissioner for Refugees, made an appeal to the delegations present for their cooperation on humanitarian activities in the former Yugoslavia, especially in Sarajevo. She particularly stressed the importance of free and unhindered access to people in need of humanitarian assistance; safe passage for humanitarian convoys; and safety and respect for all humanitarian relief staff.

24. Following these statements, the Co-Chairmen then adjourned the meeting. They stated that they would have bilateral talks with the delegations. They requested that all delegations be available for consultations upon short notice. If the Co-Chairmen felt that there was reason to convene another plenary meeting, they would do so. They again strongly appealed for military and political restraint. They noted in that regard that the three sides in Bosnia and Herzegovina had agreed on 10 November 1992 to a cessation of hostilities throughout Bosnia and Herzegovina and had reconfirmed that agreement on 13 December.

25. Several hours after the conclusion of the plenary session, Mr. Karadzic issued a statement that he had decided to agree with the proposed constitutional principles provided that his "assembly" confirmed that agreement within seven days.

Appendix I

Constitutional principles for Bosnia and Herzegovina proposed by the Co-Chairmen on 2 January 1993

(1) Bosnia and Herzegovina shall be a decentralized State, with most governmental functions carried out by its provinces.

(2) The provinces shall not have any international legal personality and may not enter into agreements with foreign States or with international organizations.

(3) Full freedom of movement shall be allowed throughout Bosnia and Herzegovina, to be ensured in part by the maintenance of internationally controlled throughways.

(4) The Constitution shall recognize three "constituent peoples", as well as a group of "others".

(5) All matters of vital concern to any of the constituent peoples shall be regulated in the Constitution, which as to these points may be amended only by consensus of these constituent peoples; ordinary governmental business is not to be veto-able by any group.

(6) The provinces and the central Government shall have democratically elected legislatures and democratically chosen chief executives and an independent judiciary. The presidency shall be composed of three elected representatives each of the three constituent peoples. The initial elections are to be United Nations/European Community/Conference on Security and Cooperation in Europe supervised.

(7) A Constitutional Court, with a member from each group and a majority of non-Bosnian members initially appointed by the International Conference on the Former Yugoslavia, shall resolve disputes between the central Government and any province, and among organs of the former.

(8) Bosnia and Herzegovina is to be progressively demilitarized under United Nations/European Community supervision.

(9) The highest level of internationally recognized human rights shall be provided for in the Constitution, which shall also provide for the ensurance of implementation through both domestic and international mechanisms.

(10) A number of international monitoring or control devices shall be provided for in the Constitution, to remain in place at least until the three constituent peoples by consensus agree to dispense with them.

Appendix II

Constitutional principles for Bosnia and Herzegovina proposed by the Bosnian Serb delegation of 10 January 1993

(1) Bosnia and Herzegovina shall be a composite State, with most of the State functions carried out by its provinces.

(2) Full freedom of movement shall be allowed throughout Bosnia and Herzegovina, to be ensured in part by the maintenance of internationally controlled throughways.

(3) The Constitution shall recognize three constituent peoples as its three constituent units, as well as a group of others.

(4) All matters of vital concern to any of the constituent peoples shall be regulated in the constitutional agreement, which would be adopted by consensus of these constituent peoples; ordinary government business is not to be veto-able by any group.

(5) The provinces and the central Government shall have democratically elected legislatures and democratically chosen chief executives and an independent judiciary. Central authorities shall be composed on a parity basis with a consensual or highly qualified majority in the decision-making process. The presidency shall be composed of three elected representatives each of the three constituent peoples. The initial elections are to be United Nations/European Community/Conference on Security and Cooperation in Europe supervised.

(6) A Constitutional Court, with a member from each constituent people, shall resolve disputes between the central Government and any province, and among organs of the former. A number of foreign experts may be nominated to the Constitutional Court at the proposal of each constituent people on an equal basis.

(7) Bosnia and Herzegovina is to be progressively demilitarized under United Nations/European Community supervision.

(8) The highest level of internationally recognized human rights shall be provided for in the Constitution, which shall also provide for the ensurance of implementation through both domestic and international mechanisms.

Appendix III

Consolidated constitutional principles for Bosnia and Herzegovina proposed by the Co-Chairmen

(1) Bosnia and Herzegovina shall be a decentralized State, the Constitution shall recognize three constituent peoples, as well as a group of others, with most governmental functions carried out by its provinces.

(2) The provinces shall not have any international legal personality and may not enter into agreements with foreign States or with international organizations.

(3) Full freedom of movement shall be allowed throughout Bosnia and Herzegovina, to be ensured in part by the maintenance of internationally controlled throughways.

(4) All matters of vital concern to any of the constituent peoples shall be regulated in the Constitution, which as to these points may be amended only by consensus of these constituent peoples; ordinary governmental business is not to be veto-able by any group.

(5) The provinces and the central Government shall have democratically elected legislatures and democratically chosen chi f executives and an independent judiciary. The presidency shall be composed of three elected representatives each of the three constituent peoples. The initial elections are to be United Nations/European Community/Conference on Security and Cooperation in Europe supervised.

(6) A Constitutional Court, with a member from each group and a majority of non-Bosnian members initially appointed by the International Conference on the Former Yugoslavia, shall resolve disputes between the central Government and any province, and among organs of the former.

(7) Bosnia and Herzegovina is to be progressively demilitarized under United Nations/European Community supervision.

(8) The highest level of internationally recognized human rights shall be provided for in the Constitution, which shall also provide for the ensurance of implementation through both domestic and international mechanisms.

(9) A number of international monitoring or control devices shall be provided for in the Constitution, to remain in place at least until the three constituent peoples by consensus agree to dispense with them.